

## **FINAL STATEMENT OF REASONS**

### **Financial Solvency of Risk Bearing Organizations**

**Amending Sections 1300.75.4, 1300.75.4.1, 1300.75.4.2, 1300.75.4.5, 1300.75.4.7, 1300.75.4.8 and 1300.76**

**(Control No. 2017-5216)**

#### **Updated Informative Digest**

There have been no changes in applicable laws or to the effect of the proposed regulation from the laws and effects described in the Notice of Proposed Regulatory Action dated May 25, 2018.

#### **Update of Information Contained in the Initial Statement of Reasons**

- The DMHC amended Schedule B on the Annual Financial Survey Report Form and Quarterly Financial Survey Report Form by adding columns for Unsecured Receivables (Normal Course of Business) and Plan Receivables due within 1 - 30 days. This new information will benefit the DMHC by demonstrating monies that are due to entities during this period to show financial solvency.
- The DMHC amended the Balance Sheet on the Annual Financial Survey Report Form and Quarterly Financial Survey Report Form by clarifying that “HMO Receivables – Net” is collectible within 30 days and collectible beyond 30 days. By clarifying the definition of HMO receivables, the financial solvency of the entity is detailed in a more structured timeframe of monies due to the entity. This information will benefit the DMHC when reviewing the form information and understanding the financial stability of the entity in both the short and long term.
- The DMHC amended the notice requirement for a self-initiated corrective action plan (CAP) from seven calendar days to 15 calendar days. This was done after careful consideration of stakeholder comments and allows them more time in which to obtain necessary information that benefits both them and the DMHC when reviewing the CAP information and determining whether it is adequate to address the financial issue being resolved.
- The DMHC amended the Annual Financial Survey Report Form and Quarterly Financial Survey Report Form by deleting the reference to “Minimum TNE Requirement” on Schedule I. This was done for clarity and because of confusion regarding the meaning of the term. The DMHC made additional non-substantive formatting changes to Schedule I because of this deletion.
- The DMHC amended section 1300.75.4.1, subdivisions (a)(1) and (a)(2) to increase the time allowed for disclosure through electronic transmission from 10

to 15 calendar days. This amendment is necessary to allow the entity more time to obtain the information requested to ensure that it is accurate when submitted.

- The DMHC amended section 1300.75.4.1, subdivision (c) to show the distinction between percentage of premium and per member per month by adding the following “or the respective amount under a percentage of premium arrangement.” This distinction is necessary to show the type of payment being received when calculating financial solvency.
- The DMHC amended the definition of “cash-to-claims ratio” to clarify that receivables are HMO capitation receivables and that an organization shall only report HMO capitation receivables due within 30 days that the organization believes will be received by that time. This amendment is necessary because often entities will report receivables to demonstrate solvency and these receivables never occur. The entity must demonstrate that it believes the receivables will be given when calculating their financial solvency and submitting this information to the DMHC for review.
- The DMHC amended section 1300.75.4.2, subdivision (c) to clarify that the DMHC Annual Financial Survey Report Form shall be prepared in accordance with generally accepted accounting principles and not generally accepted auditing standards. This was a naming error and needed to be corrected to reference the correct name of the standard being used.
- The DMHC amended section 1300.76, subdivision (c) to clarify the tangible net equity of an organization shall be determined by the criteria listed in subdivision (c). This was done for consistency and to ensure the entities understand the requirements for reporting TNE in manner that is acceptable to the Director of the DMHC.
- The DMHC amended the Annual Financial Survey Report Form and Quarterly Financial Survey Report Form to change the tangible net equity requirements in the grading criteria section. The DMHC added a “Tangible Net Equity Excess (deficiency)” requirement and clarified that TNE means tangible net equity for the purposes of filling out the forms and reporting necessary financial data demonstrating solvency to the DMHC.

### **Non-Substantive Changes**

- The Department has deleted the April 1, 2019 implementation date and instead placed the language “[OAL insert date here]” to ensure compliance with the Government Code effective dates as specified in section 11343.4. This is a non-substantive change to ensure the date for compliance is the same as the effective date of the regulations.
- The Department has made non-substantive changes to correct grammar and spacing in the regulations.

### **Update of Material Relied Upon**

No material other than the public comments, the Notice of Proposed Rulemaking Action, the 15-day comment period documents, the Final Statement of Reasons and the Final Text of the Regulations have been added to the rulemaking file since the time the rulemaking record was opened, and no additional material has been relied upon.

### **Forms Incorporated by Reference**

Pursuant to Title 1, section 20, of the California Code of Regulations, the Department has incorporated by reference the Annual Financial Survey Report Form, the Quarterly Financial Report Form and the Corrective Action Plan Form after determining that it would be too cumbersome, unduly expensive, or otherwise impractical to publish the document in the California Code of Regulations.

### **Mandate on Local School Agencies and School Districts**

The Department has determined that the proposed regulation will not impose a mandate on local school agencies or school districts.

### **Comparable Federal Law**

The Department has reviewed federal law and determined that there is no comparable federal law for these regulations.

### **Alternatives to the Proposed Regulation**

The Department determined during the rulemaking process that the alternatives considered would not be more effective in carrying out the purposes for which the regulation is proposed, would not be as effective and less burdensome to regulated entities, and would not be more cost-effective in implementing the requirements of Health and Safety Code sections 1345, 1349 and the entirety of the Knox-Keene Act.

### **Summary of and Responses to Comments**

The Department's summary and responses to comments from the four comment periods are contained in Tabs H, L, P and T of the rulemaking record.